

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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Yitzchok Majerowitz,

Plaintiff,

Civil Action No.: cv 12-4591 (ARR)(RER)

v.

Forster & Garbus, LLP,

**AMENDED COMPLAINT**

Defendant(s).

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Plaintiff Yitzchok Majerowitz (“Plaintiff” or “Majerowitz”), by and through its attorneys, FREDRICK SCHULMAN & ASSOCIATES, Attorneys at Law, as and for its Complaint against the Defendant Forster & Garbus, LLP (“Defendant” or “GARBUS”), respectfully sets forth, complains and alleges, upon information and belief, the following:

**INTRODUCTION/PRELIMINARY STATEMENT**

1. Plaintiff brings this action for damages and declaratory and injunctive relief arising from the Defendant’s violation(s) of Sec. 1692 et. Seq. of Title 15 of the United States Code, commonly referred to as the Fair Debt Collections Practices Act (“FDCPA”).

**PARTIES**

2. Plaintiff is a resident of the State of New York, County of Kings, residing at 55 Franklin Avenue, #4A , Brooklyn, NY 11205.

3. Defendant is a collection firm with a principal place of business at 60 Motor Parkway, Commack, NY 11725, and, upon information and belief, is licensed to do business in the State of New York.

4. GARBUS is a “debt collector” as the phrase is defined and used in the FDCPA.

### **JURISDICTION AND VENUE**

5. The Court has jurisdiction over this matter pursuant to 28 USC Sec. 1331, as well as 15 USC Sec. 1692 et. seq. If applicable, the Court also has pendant jurisdiction over the State law claims in this action pursuant to 28 U.S.C. Sec. 1367 (a).

6. Venue is proper in this judicial district pursuant to 28 U.S.C. Sec. 1391 (b)(2).

### **FACTUAL ALLEGATIONS**

7. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered “1” through “6” herein with the same force and effect as if the same were set forth at length herein.

8. On information and belief, on a date better known to Defendant, Defendant began collection activities on an alleged consumer debt from the Plaintiff (“Alleged Debt”).

9. In or around November, 2011, Defendant placed a telephone call to Plaintiff, and left a message for Plaintiff on Plaintiff’s answering machine (See transcript, attached hereto as Exhibit “A”).

10. Said message contained personal and confidential information.

11. Said message was a message in connection to collect a debt, and it was left on an answering machine which was played and heard by one or more third parties who each had the right and opportunity to play same.
12. Said message was heard, amongst others, by Plaintiff's son, Chaim Majerowitz.
13. The actions of Defendant led to embarrassment, harassment, and disclosure of confidential information to a third party.
14. Said actions by Defendant violated 15 U.S.C. §1692c(b) which prohibits a debt collector from communicating, in connection with the collection of any debt, with any person other than the consumer, his attorney, or a consumer reporting agency.
15. As a result of Defendant's deceptive, misleading and unfair debt collection practices, Plaintiff has been damaged.

**FIRST CAUSE OF ACTION**  
**(Violations of the FDCPA)**

16. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "15" herein with the same force and effect as if the same were set forth at length herein.
17. Defendant's debt collection efforts attempted and/or directed towards the Plaintiff violate various provisions of the FDCPA, including but not limited to 15 USC §1692c(b).
18. As a result of Defendant's violations of the FDCPA, Plaintiff has been damaged and is entitled to damages in accordance with the FDCPA.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff Yitzchok Majerowitz demands judgment from the Defendant Forster And Garbus LLP, as follows:

- A. For actual damages provided and pursuant to 15 USC Sec. 1692k(a)(1);
- B. For statutory damages provided and pursuant to 15 USC Sec.1692k(2)(A);
- C. For attorneys' fees and costs provided and pursuant to 15 USC Sec. 1692k(a)(3);
- D. A declaration that the Defendants' practices violated the FDCPA; and,
- E. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Dated: New York, New York  
December 4, 2012

Respectfully submitted,

By:    s/ Jacob J. Scheiner                      
Jacob J. Scheiner, Esq.  
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# **EXHIBIT “A”**

Exhibit A - Transcript

This is a personal and confidential message for Yitzchak Mejrowitz. This is Mr. Cage from Foster and Garbus. This is regarding your Chase Visa Bank account. You may reach me at 1-800-245-9943, extension 586 today until 5pm. This is an attempt to collect a debt any information obtained will be used for that purpose. Thank you.